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Concluding observations on the fourth periodic report of Slovakia

Addendum

Information received from Slovakia on follow-up to the concluding observations*

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Recommendation No. 13

1. The Ministry of Justice of the SR ("MJ") partially meets the recommendation via the amendment of the Act No. 300/2005 Coll. Criminal Code as amended ("CC"). The amendment was made by Act No. 316/2016 Coll. and is effective as of 1 January 2017. The objective of the amendment of the CC is to investigate the crimes of extremism and racially motivated crimes more efficiently. The definition of extremist material was changed. The dictum according to which a material is of extremist nature only if its connection with incitement to hatred, violence and other undesirable phenomena is proven was abandoned. The founding of a movement aimed at the suppression of fundamental rights and freedoms has become a criminal offence, not just its support and promotion, as it was the case till now. The amendment clarifies the definition of a racially motivated crime (a new wording of a special inducement under Section 140 e) of the CC). In order to classify the criminal offence as racially motivated, not only the real but even just apparent adherence of an individual or persons to a particular race, nation, nationality, ethnic group, etc. would be necessary. The act induced by the special inducement shall be also considered a crime of extremism. The crime of extremism covers also the crimes different from that one explicitly specified in Section 140a of the CC, as long as they were committed upon a special inducement pursuant to Section 140 e) of the CC.

2. The newly established provision of Section 424, Para. 1 of the CC, which contains the facts of the crime of incitement to national, racial and ethnic hatred, shall be: "*Who publicly incites to violence or hatred against a group of persons or an individual for their actual or alleged affiliation to any race, nation, nationality, ethnic group, for their actual or alleged origin, colour, sexual orientation, political conviction, religion or for they are unreligious or who publicly incites to restrict their rights and freedoms shall be punished by imprisonment for up to three years.*"

3. The definition of a special inducement pursuant to Section 140 e) of the CC shall be as follows: "A special inducement shall be the hate crime against a group of persons or an individual for their actual or alleged affiliation to race, nation, nationality, ethnic group, their real or alleged origin, colour, sexual orientation, political belief or religion."

4. The competence to deal with the crimes of extremism and to decide on them was transferred exclusively to the Specialized Criminal Court. The MJ expanded its expert field and sectoral networks by a special division in the field of extremism, divided into the following sectors: Political Extremism and Religious Extremism.

5. The Ministry of Interior of the SR ("MI") organizes the concerts "XYZ Generation" presenting the historical context of our history in a musical form. The concerts are for high school students and they are organized in all regional cities. Together with the Holocaust Museum in Sered', the MI created a 3D visual educational tool regarding the Work and Concentration Camp in Sered' intended for secondary schools and public.

6. The MI is the coordinator of the Committee for the Prevention and Eradication of Racism, Xenophobia, Anti-Semitism and Other Forms of Intolerance ("VRAX"). The VRAX was established in 2011 and is the only advisory body of the Slovak Government, specifically focused on the prevention and elimination of racism, xenophobia, anti-Semitism, and other similar forms of intolerance in society. One of the tasks of the VRAX resulting from the Concept for the Fight against Extremism 2015-2019, carried out by the Academy of the Police Forces in cooperation with the OSCE Office, is the training of the members of the Police Forces ("PF"). The THACLE Education Program is the part of the "Criminal Extremism Control" training module and the implementation of this program will enhance the capacity of law enforcement officers to identify/detect and investigate the crimes of extremism and crimes committed with a special inducement.

7. The defence of national, racial, or religious intolerance, being the incitement to discrimination, hostility or violence, is forbidden in the SR and becomes a criminal offence as long as it fulfils the merits of crime in the sense of a CC.

8. On the above-mentioned changes to the CC were participated the legislative task force set up at the VRAX. In particular, there were changes concerning Section 140 — Special Inducement, Section 140a — Offences of Extremism, Section 421 — Establishment, Support and Promotion of a Movement Aimed at the Suppression of Fundamental Rights and Freedoms, Section 422b — Dissemination of Extremist Materials and Section 422d — Denial and Approval of Genocide.

9. Prosecution bodies are involved in detecting and efficient punishment of offenders of racially motivated attacks, possibly crimes of extremism. With effect as of 1 January 2017, all the crimes of extremism were transferred to the exclusive competence of the Specialized Criminal Court and the Office of the Special Prosecutor's Office of the General Prosecution of the SR ("Special Prosecution Office") with authority for the entire territory of the SR. Since 1 January until 1 September 2017, the Special Prosecution Office records more than 120 criminal offences in which criminal prosecution for the crimes of extremism was started and 23 persons who have been charged with any of the crimes of extremism.

10. The Special Prosecution Office prosecutors participate in educational activities and in the unification of practice in detecting, proving, and punishing extremism crimes by lecturing at educational events organized for the members of the PF. The final phase of preparation is to plan the series of educational events for judges and prosecutors focusing on the issues of extremism crimes. Workshops planned for the end of 2017 and 2018 should also be attended by the experts from the Council of Europe.

11. The Ministry of Education, Science, Research and Sport of the SR (ME) considers the Recommendation 13 b) to be fulfilled. The ME provides the funds [illegible]e development projects for schools. In 2017, the ME announced 2 calls regarding:

(a) The support for regional and multicultural education of pupils belonging to national minorities. The priority area of support was activities contributing to the mutual understanding, multicultural dialogue, overcoming of prejudices against the others and to the support of regional education. The other areas of support were: to use specificities of national minorities in the teaching process; the activities contributing to the coexistence of children of different national minorities and the majority; the activities promoting the reader's literacy of children and pupils of various national minorities. 12 projects totalling EUR 20,790 were successful.

(b) The support of education and training of pupils from socially disadvantaged environment at elementary schools. The priority area of support was the activities contributing to balancing the social disadvantage of pupils and to ensuring the equal opportunities in practice consisting in the promotion of the interest of pupils from socially disadvantaged environment in education. 23 projects totalling EUR 49,000 were successful.

12. An important support of the ME is funded by the European Structural and Investment Funds for the 2014-2020 programming period, which relies on the strategy of the Human Resources Operational Program, focused on the support of education, employment, social inclusion, and vulnerable groups on the labour market. In the field of education and human capital growth it aims to strengthen all the levels of education in order to increase its quality and relevance for the labour market. The aim of the proposed activities is to align education with the needs of the labour market, which needs to be done for all pupils, students, pedagogical and professional staff and other learners with an emphasis on the inclusive aspect of education.

13. The implementation period of the Project called *The School Open to All* is from 1 February 2016 to 30 November 2019, and EUR 29,882,756 is earmarked for the project. The specific objective of the project is to increase inclusive education and improve the professional competencies of teaching staff and professional staff, to ensure the equal access to quality education and to improve the results and competencies of children and pupils.

Recommendation No. 25

14. An appropriate approach to the protection of and assistance to women — the victims of violence should be ensured by the Act on Victims of Crime (the Act on Victims), which is due to be effective as of 1 January 2018. The Act introduces the currently missing basic terms such as the crime victim and a particularly vulnerable victim to the rule of law and it also defines the domestic violence offences. The definition of a particularly vulnerable victim covers the victims of domestic violence crime, being particularly women. The Act authorises the Ministry of Labour, Social Affairs and Family of the SR to coordinate the system of domestic violence prevention which will contribute to the effective protection of women against violence.

15. A toll-free line (+421 800 300 700) for the abused persons was set up in March 2015 at the General Prosecution of the SR ("GP"). Its establishment was followed by a decrease in latency, especially in the cases of domestic violence, which is linked to violence against women. The establishment of the line also aimed at the possibility of immediate adoption of related legal measures by the prosecutor, especially in the cases of imminent threat to the victims of so called domestic violence, which are women too. The incoming calls were redirected to the regional prosecutor's offices as of 1 November 2015.

16. The adopting of the Acts on Victims will bring about the modifications in the CC. Nowadays; the offences committed upon a special inducement (Section 140 of the CC) justify the use of a higher penalty rate. A criminal offence is committed upon a special inducement, including hatred against a group of persons or an individual for their actual or alleged affiliation of any race, nation, nationality, ethnic group, their true or alleged origin, colour, sexual orientation, political belief or religion or sexual inducement. The adoption of the Act on Victims will complement the special inducement with hatred against a group of persons or an individual due to his/her gender.

17. The Act on Victims amends the provision governing the limitation of selected offences: human trafficking, sexual abuse, abusive treatment of a related person and a person in custody, and the crime of child pornography production, which are also complemented by the crimes of rape and sexual offences and it prolongs the limitation period of these offences from 3 to 15 years as of the date the victim reaches the age of 18. The subject of such crimes is often minor girls. Practice highlighted the fact that victims of the crime often choose to report these crimes only after the expiration of the limitation period and therefore in these cases the perpetrators remained unpunished, which allowed them to further commit crime.

18. Regarding the issue of criminal sanctions for domestic violence, the Plan of the Main Tasks of the Prosecution of the SR for 2016 included the fulfilment of two tasks, namely the "Evaluation of the State of Legality in the Procedure and Decisions of the State Bodies in the Matters of Misdemeanours in the Internal Administration Section — the Misdemeanours against the Civil Co-existence with a Focus on Domestic Violence" and the "Evaluation of the Procedure of Law Enforcement Authorities in the Prosecution of Offenders for the Crime of Abusing the Related Person and the Person in Custody under Section 208 of the CC for 2015". The GP prosecutors are involved in the development and implementation of the National Action Plans, including the National Action Plan for the Prevention and Elimination of Violence against Women for the years 2014-2019. The Criminal Department cooperates in the field of the processing of reports and material related to the issue of domestic violence or violence against women. It participates in the preparation of the Act on Victims, which should regulate in a complex way the guarantees for the crime victims entitling them to legal aid, the protection against secondary victimisation and to provide the victims with assistance through organizations helping the injured parties.

19. In accordance with the Act No. 576/2004 Coll. on Healthcare, everyone is entitled to healthcare, while the entitlement to healthcare is granted identically to everyone in accordance with the principle of equal treatment in healthcare laid down in a special regulation.

20. With regards to the Council of Europe Convention on Prevention of and Combating Violence against Women and Domestic Violence, the SR states that there is currently no obstacle to the ratification of the Convention in terms of legal analysis of the MJ from a legal point of view. Nevertheless, discussion is still needed in view of the divergent views in civil society as well as in the National Council of the SR, whose consent to the ratification shall be necessary.

Recommendation No. 33

21. One of the basic tasks of the PF under the Act No. 171/1993 Coll. on the Police Forces is the searches for persons and things. The PF searches for every child whose missing was reported to it. While searching for a missing child, his/her citizenship, or permanent residence on the territory of the SR or abroad shall not be decisive, but all the necessary actions and measures are immediately taken.

22. Personal data on the missing child available to the PF are inserted into the PATROS Person Search Information System from which the data are generated to the Schengen Information System II and are available to all users of the Schengen Information System II abroad. For this reason, a separate register of missing children is not required.

23. On 1 May 2017, the Act No. 82/2017 Coll. amending the Act No. 404/2011 Coll. on Residence of Aliens entered into force. Section 111 Para. 6 of the Act on Residence of Aliens stipulates: "*A third-country national who declares himself/herself to be an unaccompanied minor ("UM") shall be obliged to undergo a medical examination to determine his/her age should there is a suspicion he/she is the person of full age*".

24. On contrary to the previous legal arrangement, when just an evidently minor person was not obliged to undergo the examination, the present legal stipulation states the national of third country who declares himself/herself to be the UM must undergo such an examination only in the case of a suspicion he/she is the person of full age. Therefore, should there be no suspicion the person is of full age (with regards to his/her physical stature and behaviour appropriate to childhood), no adult person related acts shall be done with the person.

25. Even in the case he/she is a minor, the person is informed of his/her rights at least till the time of his/her guardian appointment, should he/she be mentally capable to perceive such instruction. The minors undergo the act of making statements only in the presence of parents or guardians. The authority for the social protection of children and the social guardianship shall carry out urgent acts in the interest of the child until the guardian is appointed for the UM pursuant to a special regulation or until the guardian appointed takes up his/her duties.

26. A person who declares himself/herself to be the UM and who is suspected of being of full age shall be considered to be a full-aged person for the purposes of the Act on the Residence of Aliens till the outcome of a medical examination determining his/her age. Should such a person refuse to undergo a medical examination to determine his/her age, he/she shall be considered to be a full-aged person for the purpose of the acts under the Act on the Residence of Aliens. The outcome of the medical examination determining the age of the person shall be processed by the physician in the form of an expert judgement. The police unit is obliged to instruct such a person about the entitlement to order him/her to undergo a medical examination to determine his/her age, the method, and the consequences of the examination for the proceedings pursuant to the Act on the Residence of Aliens, as well as about the consequences of refusing the examination.

27. This implies that not all third-country nationals who declare themselves to be UMs are not examined "en bloc". This examination shall be carried out only of the persons being suspected of being of full age and there is a reasonable doubt that they are trying to avoid their return to their country of origin by such a statement.

28. A child who is not the citizen of the SR and has entered, or appeared on our territory unaccompanied by a parent or other full-aged natural person to whom he/she could be entrusted to personal care and has been identified as the UM, shall be placed to the relevant

facility for social and legal protection of children (the foster home) in accordance with the Act on Social Protection of Children and Social Guardianship. The authority for social protection shall carry out the urgent actions in the interest of the child, including filing a proposal for urgent action by the courts and the appointment of the guardian, while it shall be responsible for the proper performance of urgent acts in the best interests of the child until the appointed guardian takes up his/her duties.

29. The amendment to the Act on the Social Protection of Children and Social Guardianship introduced an obligation for the competent authority for the social protection of children and for social guardianship to arrange the legal advisory and legal assistance to the UM, upon his/her request.

30. The Act No. 327/2005 provides free legal assistance in the asylum related matters and in the matters of the retention or administrative expulsion of a third-country national, including in the court proceedings before the administrative courts and in the proceedings before the Constitutional Court of the SR. The legal assistance is understood to be the provision of legal services to a person entitled under this Act in connection with the exercise of his/her rights, including in particular legal advice, filing of cases to the courts, representation in court proceedings and the execution of related acts, as well as the full or partial reimbursement of related costs.

31. An application for legal aid in the case of asylum shall be filed for the UM by his/her guardian or an authority of social protection for children in the Legal Aid Centre. While providing the legal assistance, the Centre has an explicit duty to cooperate with the authorities responsible for the social protection of children and social guardianship and, if necessary, to provide an interpreter and to provide for the translation of documents required by the court or competent authorities which are necessary for a decision on the case. In the case of unaccompanied children, the professional services of child psychologists and/or cultural mediators are increasingly used (on the basis of the recommendations of international organizations and so called "good practice") — i.e. people who come from or know the linguistic and cultural environment of the particular child.

32. In relation to the UM, there is an increased level of protection anchored in the Act on the Residence of Aliens, according to which it is not possible to arrest or expel a child — i.e. a person below the age of 18 who does not have a statutory representative, unless it is in his/her interests, whereby the proceedings on retention and administrative expulsion in relation to this vulnerable group should not take place.

33. The authorities for the social protection of children and social guardianship should implement all the measures related to UMs on the territory of the SR, appropriate to the culture, language, religion, and traditions of their countries of origin.

34. The access to the education system in regional education (i.e. kindergartens, primary and secondary schools, including the special ones) shall be provided for pursuant to the laws in force in the SR under the same conditions as to its own nationals.

35. The education of children of foreign nationals in regional education is legislatively arranged by the Act No. 245/2008 Coll. on Education and Training (the Education Act) with effect as of 1 September 2008. The children of foreigners who are allowed to stay in the territory of the SR, the children of asylum seekers and Slovaks living abroad shall be provided with education and training, accommodation and meals in schools under the Education Act under the same conditions as the citizens of the SR.

36. The follow-up is set out in the Act No. 596/2003 Coll. on State Administration in the School System and School Self-government. The education departments of district offices in the headquarters of the region shall organisationally and financially cover the language courses for the children of foreigners who are allowed to stay in the SR in cooperation with local self-government authorities. Language courses for foreigners are funded via conciliation procedure on the basis of the application of the founder.